

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILED/ACCEPTED
OCT 31 2007
Federal Communications Commission
Office of the Secretary

In the Matter of)	EB Docket No. 07-197
)	
Kurtis J. Kintzel, Keanan Kintzel, and all)	File No. EB-06-IH-5037
Entities by which they do business before)	NAL/Acct. No. 200732080029
the Federal Communications Commission)	
)	FRN No. 0007179054
)	

To: Kurtis J. Kintzel

**ENFORCEMENT BUREAU'S REQUEST FOR ADMISSION OF FACTS
AND GENUINENESS OF DOCUMENTS TO KURTIS J. KINTZEL**

The Enforcement Bureau (the "Bureau"), pursuant to section 1.246 of the Commission's Rules, 47 C.F.R. § 1.246, hereby requests that, within 10 days of service of this request, Kurtis J. Kintzel, admit to the truth of the following facts and genuineness of the attached documents, as set forth in the following numbered paragraphs. Each response shall be labeled with the same number as the subject admission request and shall be made under oath or affirmation of the person providing the response.

No. of Copies made 076
LIST ABOVE

Definitions

For this document, the following definitions apply:

“Avatar” means Avatar Enterprises, Inc., any affiliate, d/b/a, predecessor-in-interest, parent company, wholly or partially owned subsidiary, successor-in-interest or other affiliated company or business, including but not limited to, BOI, Buzz Telecom and US Bell, and all directors, officers, employees, shareholders or agents, including consultants and any other persons working for or on behalf of any of the foregoing during the period February 11, 2004 through the present, unless otherwise noted.

“BOI” means Business Options, Inc., any affiliate, d/b/a, predecessor-in-interest, parent company, wholly or partially owned subsidiary, successor-in-interest or other affiliated company or business, including but not limited to, Avatar, Buzz Telecom and US Bell, and all directors, officers, employees, shareholders or agents, including consultants and any other persons working for or on behalf of any of the foregoing during the period February 11, 2004 through the present, unless otherwise noted.

“Buzz” means Buzz Telecom Corporation, any affiliate, d/b/a, predecessor-in-interest, parent company, wholly or partially owned subsidiary, successor-in-interest or other affiliated company or business, including but not limited to, BOI, Avatar and US Bell, and all directors, officers, employees, shareholders or agents, including consultants and any other persons working for or on behalf of any of the foregoing during the period February 11, 2004 through the present, unless otherwise noted.

“Commission” means Federal Communications Commission.

“Companies” means BOI, Buzz, Avatar and US Bell, or any one of those entities.

“US Bell” means U.S. Bell, Inc., its successor Link Technologies, any affiliate, d/b/a, predecessor-in-interest, parent company, wholly or partially owned subsidiary, successor-in-interest or other affiliated company or business, including but not limited to, BOI, Avatar and Buzz, and all directors, officers, employees, shareholders or agents, including consultants and any other persons working for or on behalf of any of the foregoing during the period February 11, 2004 through the present, unless otherwise noted.

“You” means Kurtis J. Kintzel, individually and as an officer and director of BOI and Buzz.

Admissions

1. BOI entered into a consent decree with the Commission dated on or about February 13, 2004 (the “Consent Decree”) in connection with a proceeding under EB Docket No. 03-85.
2. The Companies are signatories to the Consent Decree.
3. You are BOI’s Chairman of the Board.
4. You have been Chairman of the Board of BOI during the period February 11, 2004 through the present.
5. You are BOI’s president.
6. You have been BOI’s president during the period February 11, 2004 through the present.
7. You hold a 72 percent equity interest in BOI.
8. You have held a majority equity interest in BOI during the period February 11, 2004 through the present.

9. Keanan Kintzel is BOI's Secretary/Treasurer.
10. Keanan Kintzel has been BOI's Secretary/Treasurer during the period February 11, 2004 through the present.
11. Keanan Kintzel is a director of BOI.
12. Keanan has been a director of BOI during the period February 11, 2004 through the present.
13. Keanan Kintzel holds a 26 percent equity interest in BOI.
14. Keanan Kintzel has held a minority equity interest in BOI from February 11, 2004 through the present.
15. You are Buzz's Chairman of the Board.
16. You have been Chairman of the Board of Buzz Telecom from February 11, 2004 through the present.
17. You have been President of Buzz during the period February 11, 2004 through the present.
18. You hold a 72 percent equity interest in Buzz.
19. You have held a majority equity interest in Buzz from February 11, 2004 through the present.
20. Keanan Kintzel is Buzz's Secretary.
21. Keanan Kintzel has been Secretary of Buzz Telecom from February 11, 2004 through the present.
22. Keanan Kintzel is a director of Buzz.
23. Keanan Kintzel holds a 26 percent equity interest in Buzz.

24. Keanan Kintzel has held a minority equity interest in Buzz from February 11, 2004 through the present.

25. You are a director of Avatar.

26. You have been a director of Avatar during the period February 11, 2004 through the present.

27. You hold a 72 percent equity interest in Avatar.

28. You have held a majority equity interest in Avatar from February 11, 2004 through the present.

29. Keanan Kintzel is a director of Avatar.

30. Keanan Kintzel has been a director of Avatar during the period February 11, 2004 through the present.

31. Keanan Kintzel holds a 26 percent equity interest in Avatar.

32. Keanan Kintzel has held a minority equity interest in Avatar from February 11, 2004 through the present.

33. You and Keanan Kintzel are brothers.

34. You are responsible for overseeing the financial management of BOI.

35. You have been responsible for overseeing the financial management of BOI during the period February 11, 2004 through the present.

36. Keanan Kintzel is responsible for overseeing the day-to-day activities of BOI.

37. Keanan Kinzel has been responsible for overseeing the day-to-day activities of BOI during the period February 11, 2004 through November 2006.

38. Keanan Kinzel has been responsible for overseeing the day-to-day activities of BOI during the period December 2006 through the present.

39. You are responsible for overseeing the financial management of Buzz.
40. You have been responsible for overseeing the financial management of Buzz during the period February 11, 2004 through the present.
41. You are responsible for overseeing the regulatory compliance of BOI.
42. You have been responsible for overseeing the regulatory compliance of BOI during the period February 11, 2004 through the present.
43. You are responsible for overseeing the regulatory compliance of Buzz.
44. You have been responsible for overseeing the regulatory compliance of Buzz during the period February 11, 2004 through the present.
45. Keanan Kintzel is responsible for overseeing the day-to-day activities of Buzz.
46. Keanan Kinzel has been responsible for overseeing the day-to-day activities of Buzz during the period February 11, 2004 through November 2006.
47. Keanan Kinzel has been responsible for overseeing the day-to-day activities of Buzz during the period December 2006 through the present.
48. You had to approve all scripts used by telemarketers to market Buzz during the period February 11, 2004 through November 2006.
49. You have had to approve all scripts used by telemarketers to market Buzz during the period December 2006 through the present.

Attachment A

50. Attachment A is a true and accurate copy of the Consent Decree.

51. The signature that appears on Attachment A on behalf of Business Options, Inc., U.S. Bell, Inc./Link Technologies, Buzz Telecom Corporation and Avatar Enterprises, Inc. belongs to You.

52. You had authority to sign the document appearing in Attachment A on behalf of BOI, US Bell, Buzz and Avatar.

53. You had authority to sign the document that appears as Attachment A on behalf of the Companies.

Attachment B

54. Attachment B is a true and accurate copy of a letter, dated December 20, 2006 from Trent B. Harkrader, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, to Kurtis J. Kintzel, Business Options, Inc.

55. BOI received a copy of Attachment B on or about December 20, 2006.

Attachment C

56. Attachment C is a true and accurate copy of BOI's response, dated January 17, 2007, to the LOI (Attachment B hereto), without attached documents.

57. One or more officers of BOI personally prepared the document which is appended hereto as Attachment C.

58. One or more officers of BOI personally reviewed the document which is appended hereto as Attachment C for truthfulness, completeness, and correctness before it was filed with the Commission.

Attachment D

59. Attachment D is a true and accurate copy of the declaration of Kurtis Kintzel dated February 9, 2007.

60. One or more officers of BOI personally prepared the document which is appended hereto as Attachment D.

61. One or more officers of BOI personally reviewed the document which is appended hereto as Attachment D for truthfulness, completeness, and correctness before it was filed with the Commission.

62. The signature that appears on Attachment D belongs to you.

63. At the time you signed Attachment D, you were the Chief Executive Officer of BOI.

64. At the time you signed Attachment D, you were the Chief Executive Officer of Buzz.

65. At the time you signed Attachment D, Buzz was an affiliate of BOI.

66. At the time you signed Attachment D, Buzz shared common ownership with BOI.

Attachment E

67. Attachment E is a true and accurate copy of an e-mail, dated January 30, 2007 from Brain M. Hendricks, Attorney Advisor, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, to You, excluding attachments.

68. You received a copy of Attachment E on or about January 30, 2007.

Respectfully submitted,

A handwritten signature in cursive script, reading "Michele Levy Berlove", is written over a solid horizontal line.

Kris Anne Monteith
Chief, Enforcement Bureau

Michele Levy Berlove
Attorney, Investigations and Hearings Division

Judy Lancaster
Attorney, Investigations and Hearings Division

Federal Communications Commission
445 12th Street, S.W., Room 4-C330
Washington, D.C. 20554
(202) 418-1420
October 31, 2007

ATTACHMENT A

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	EB Docket No. 03-85
)	
BUSINESS OPTIONS, INC.)	File No. EB-02-TC-151
)	
Order to Show Cause and)	NAL/Acct. No. 200332170002
Notice of Opportunity for Hearing)	
)	FRN: 0007179054

CONSENT DECREE

1. The Enforcement Bureau (the "Bureau") of the Federal Communications Commission ("FCC" or "Commission") and Business Options, Inc. ("BOI") hereby enter into this Consent Decree for the purpose of terminating the above captioned proceeding (the "Proceeding") initiated by an Order to Show Cause and Notice of Opportunity for Hearing ("Order to Show Cause") issued by the Commission on April 7, 2003.¹

2. For purposes of this Consent Decree, the following definitions shall apply.

- (a) "Affiliates" means any entity owned, directed or controlled by either Kurtis J. Kintzel, and/or Keanan Kintzel, which provides or markets long distance telephone service.
- (b) "AVATAR" means Avatar Enterprises, Inc., all d/b/a entities, and any entity owned, directed or controlled by AVATAR or its principals, Kurtis J. and Keanan Kintzel, including all subsidiaries, commonly-owned affiliates, successors, and assigns that provide or market long distance telephone service.
- (c) "BOI" means Business Options, Inc., all d/b/a and related entities that provide or market the sale of long distance telephone service, including U.S. Bell, Inc., Link Technologies, Buzz Telecom Corporation, and any entity owned, directed or controlled by the company or its principals, Kurtis J. Kintzel and Keanan Kintzel, including all subsidiaries, commonly-owned affiliates, successors, and assigns that are engaged in the business of providing or marketing long distance telephone service.
- (d) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.

¹ See *Order to Show Cause and Notice of Opportunity for Hearing*, 18 FCC Rcd 6881 (2003).

- (e) "BUZZ" means Buzz Telecom Corporation, all d/b/a entities, and any entity owned, directed or controlled by BUZZ or its principals, Kurtis J. Kintzel and Keanan Kintzel, including all subsidiaries, commonly-owned affiliates, successors, and assigns that are engaged in the business of providing or marketing long distance telephone service.
- (f) The "Companies" means BOI, U.S. Bell/LINK, BUZZ, and AVATAR.
- (g) "Customer" means a consumer (a natural person, individual, governmental agency or entity, partnership, corporation, limited liability company or corporation, trust, estate, incorporated or unincorporated association, and any other legal or commercial entity however organized) offered, receiving, or previously receiving inter-exchange services from the Companies.
- (h) "Discontinuance Application" means the application that must be filed by a domestic carrier before it discontinues, reduces or impairs service as prescribed in 47 C.F.R. § 63.71 (2002).
- (i) "Effective Date" means the date on which the Order becomes a Final Order.
- (j) "FCC" or the "Commission" means the Federal Communications Commission and all of its bureaus and offices.
- (k) "Final Order" means an order that is no longer subject to administrative or judicial reconsideration, review, appeal, or stay.
- (l) "Independent Third Party Verifier" means, in addition to the qualifications set forth in 47 C.F.R. § 64.1120(c)(3), an entity (i) whose employees are not paid directly by the Companies, (ii) whose owners are not employed by the Companies in any way, and (iii) whose employees and/or owners are not related by blood or marriage to Kurtis or Keanan Kintzel.
- (m) "Misleading" means a misrepresentation, omission, or other practice that is intended or could reasonably be expected to deceive, confuse or misinform a reasonable consumer acting reasonably under the circumstances.
- (n) "Order" means the order of the presiding officer adopting the terms of this Consent Decree without change, addition, or modification.
- (o) "Order to Show Cause" means the Order to Show Cause and Notice of Opportunity for Hearing, 18 FCC Rcd 6881 (2003).

- (p) The "Parties" means the Companies and the Bureau.
- (q) The "Proceeding" means the evidentiary hearing initiated by the Order to Show Cause.
- (r) "Registration" means the filing of the information set forth in 47 C.F.R. § 64.1195 (2002).
- (s) "Re-provisioning" means the practice of changing a former customer's long distance telephone service back to the Companies without obtaining authorization or verification of any authorization from that customer for the change.
- (t) "Sales Call" means a telephone solicitation for the purpose of obtaining or re-obtaining a customer for the Companies' long distance telephone service.
- (u) "Sales Representative" means a person working for or on behalf of the Companies, whose job involves soliciting potential customers for the Companies' long distance telephone service.
- (v) "Slamming" means the changing of a telephone owner's long distance carrier without following the procedures set forth in 47 C.F.R. § 64.1120 (2002).
- (w) "U.S. Bell/LINK" means U.S. Bell, Inc. and its successor, Link Technologies, including all subsidiaries, commonly-owned affiliates, successors, and assigns.

I. BACKGROUND

3. On April 7, 2003, the Commission released the Order to Show Cause, initiating an evidentiary hearing to determine whether BOI had (1) made misrepresentations or engaged in lack of candor, (2) changed consumers' preferred carrier without their authorization in willful or repeated violation of section 258 of the Act² and sections 64.1100-1190 of the Commission's rules,³ (3) failed to file FCC Form 499-A in willful or repeated violation of section 64.1195 of the Commission's rules,⁴ and (4) discontinued service without Commission authorization in willful or repeated violation of section 214 of the Act⁵ and sections 63.71 and 63.505 of the Commission's

² 47 U.S.C. § 258.

³ 47 C.F.R. §§ 64.1100-1190 (2002).

⁴ 47 C.F.R. § 64.1195 (2002).

⁵ 47 U.S.C. § 214.

rules.⁶ The Commission ordered BOI to show cause why BOI's operating authority under section 214 of the Act⁷ should not be revoked and why BOI's principals should not be ordered to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission. The Order to Show Cause put BOI on notice that the Commission could order a forfeiture of as much as \$80,000 for each unauthorized conversion of named complainants' long distance service, \$3,000 for the failure to file a sworn statement or Registration Statement, and \$120,000 for the unauthorized discontinuance of service. The Bureau was made a party to the Proceeding.

4. On August 20, 2003, the presiding officer issued a Memorandum Opinion and Order⁸ expanding the hearing to determine whether: 1) BOI, BUZZ and/or U.S. Bell/LINK had failed to make required contributions to federal universal service support programs in violation of section 254(d) of the Act⁹ and section 54.706 of the Commission's rules;¹⁰ 2) BOI, BUZZ and/or U.S. Bell/LINK had failed to make required contributions to the Telecommunications Relay Services ("TRS") Fund, in violation of section 64.604(c)(5)(iii)(A) of the Commission's rules;¹¹ and 3) BOI, BUZZ, U.S. Bell/LINK had failed to file Telecommunications Reporting Worksheets in violation of sections 54.711, 54.713 and 64.604(c)(iii)(B) of the Commission's rules.¹² The presiding officer also put BOI, BUZZ and/or U.S. Bell/LINK on notice that the Commission could order a forfeiture for the failure to make required universal service contributions and a forfeiture of as much as \$10,000 for each failure to file required TRS contributions and for each failure to file Telecommunications Reporting Worksheets.¹³

5. On December 9, 2003, the presiding officer granted the Bureau's first motion for partial summary decision, finding that BOI had changed consumers' long distance telephone service on sixteen occasions without following Commission verification procedures in violation of section 258 of the Act¹⁴ and section 64.1120(c) of the Commission's rules,¹⁵ had willfully failed to file its FCC Form 499-A in violation of

⁶ 47 C.F.R. §§ 63.71 and 63.505 (2002).

⁷ 47 U.S.C. § 214.

⁸ *Memorandum Opinion and Order*, FCC 03M-33 (Aug. 20, 2003).

⁹ 47 U.S.C. § 254(d).

¹⁰ 47 C.F.R. § 54.706 (2002).

¹¹ 47 C.F.R. § 64.604(c)(5)(iii)(A) (2002).

¹² 47 C.F.R. §§ 54.711, 54.713 and 64.604(c)(iii)(B) (2002).

¹³ *Memorandum Opinion and Order*, FCC 03M-33 (Aug. 20, 2003).

¹⁴ 47 U.S.C. § 258.

¹⁵ 47 C.F.R. § 64.1120(c) (2002). BOI's violations included failures to elicit required information, failures to obtain authorization of any kind, failures to use independent third party verifiers and failures to obtain verification for each service switched. Of the sixteen violations, nine occurred within one year of the release date of the Order to Show Cause,

section 64.1195 of the Commission's rules,¹⁶ and had discontinued service to customers in Vermont without Commission authorization in violation of section 214 of the Act¹⁷ and section 63.71 of the Commission's rules.¹⁸

6. On December 24, 2003, the presiding officer granted the Bureau's second motion for partial summary decision, finding that BOI had willfully and repeatedly failed to make required contributions to federal universal service support programs in violation of section 254(d) of the Act¹⁹ and section 54.706 of the Commission's rules,²⁰ had willfully and repeatedly failed to make TRS Fund contributions in violation of section 64.604(c)(5)(iii)(A) of the Commission's rules,²¹ and had willfully and repeatedly failed to file Telecommunications Reporting Worksheets in a timely manner in violation of sections 54.711 of the Commission's rules.²²

7. On January 28, 2004, pursuant to section 1.94(a) of the Commission's Rules,²³ the Bureau informed the presiding officer of the initiation of the negotiations that lead to this Consent Decree. Pursuant to section 1.93(b) of the Commission's rules,²⁴ the Bureau negotiated this Consent Decree to secure future compliance with sections 214, 254, and 258 of the Act²⁵ and related Commission rules in exchange for prompt disposition of the issues raised in the Order to Show Cause, other than the issues already adjudicated by the presiding officer.

II. AGREEMENT

8. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties of the Proceeding and the Order to Show Cause. In consideration for the termination of this Proceeding in accordance with the

and only those nine would be considered in determining a forfeiture penalty. *See Memorandum Opinion and Order*, FCC 03M-54 at 8, n. 12 (Dec. 9, 2003).

¹⁶ 47 C.F.R. § 64.1195 (2002).

¹⁷ 47 U.S.C. § 214.

¹⁸ 47 C.F.R. § 63.71 (2002). *Memorandum Opinion and Order*, FCC 03M-54 (Dec. 9, 2003).

¹⁹ 47 U.S.C. § 254(d).

²⁰ 47 C.F.R. § 54.706 (2002).

²¹ 47 C.F.R. § 64.604(c)(5)(iii)(A) (2002).

²² 47 C.F.R. § 54.711 (2002). *Memorandum Opinion and Order*, FCC 03M-58 (Dec. 24, 2003).

²³ 47 C.F.R. § 1.94(a).

²⁴ 47 C.F.R. § 1.93(b).

²⁵ 47 U.S.C. §§ 214, 254 and 258.

terms of this Consent Decree, the Parties agree to the terms, conditions, and procedures contained herein.

9. The Companies admit that they operate as resellers of interstate telecommunications services and that the FCC has jurisdiction over them and the subject matter of this Proceeding for the purposes of this Consent Decree. The Companies represent and warrant that they are the properly named parties to this Consent Decree and are solvent and have sufficient funds available to meet fully all financial and other obligations set forth herein. The Companies further represent and warrant that they have caused this Consent Decree to be executed by their authorized representative, Kurtis J. Kintzel, as a true act and deed, as of the date affixed next to said representative's signature. Kurtis J. Kintzel and the Companies respectively affirm and warrant that he is acting in his capacity and within his authority as a corporate officer of the Companies, and on behalf of the Companies, and that by his signature Kurtis J. Kintzel is binding the Companies to the terms and conditions of this Consent Decree. The Companies and their principals, Kurtis J. Kintzel and Keanan Kintzel, also represent that they have been represented by counsel of their choice in connection with this Consent Decree and are fully satisfied with the representation of counsel.

10. The Parties waive their right to a hearing on the issues not already adjudicated which are designated in the Show Cause Order, including all of the usual procedures for preparation and review of an initial decision. The Parties waive their right to judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order, provided the presiding officer issues the Order without change, addition, or modification of this Consent Decree. The Companies also waive whatever rights they may have to contest the validity of the presiding officer's summary decisions discussed in paragraphs 5 and 6, above.

11. The Parties agree that the Show Cause Order may be used in construing this Consent Decree.

12. The Parties agree that this Consent Decree is for settlement purposes only and that signing does not constitute an admission by the Companies, or their principals, of any violation of law, rules or policy associated with or arising from its actions or omissions as described in the Order to Show Cause.

13. The Bureau agrees that, in the absence of material new evidence relating to issues described in the Order to Show Cause that the Bureau did not obtain through discovery in this Proceeding or is not otherwise currently in the Commission's possession, the Bureau and the Commission will not use the facts developed in this Proceeding, or the existence of this Consent Decree, to institute, on its own motion, any new proceedings, formal or informal, or to make any actions on its own motion against the Companies, or their principals, concerning the matters that were the subject of the Order to Show Cause. Consistent with the foregoing, nothing in this Consent Decree limits, *inter alia*, the Commission's authority to consider and adjudicate any formal

complaint that may be filed pursuant to section 208 of the Communications Act, as amended, and to take any action in response to such formal complaint.

14. For purposes of settling the matters set forth herein, the Companies and their Affiliates agree to take the actions described below.

- (a) Beginning on the Effective Date, no Sales Representative will make a Sales Call that is Misleading in any material respect or that represents, suggests or implies that:
 - (i) the Sales Call is a courtesy call;
 - (ii) the Companies, or any one of them, are taking or have taken over for another entity that provides long distance telephone service including, but not limited to, AT&T, Sprint, MCI or any former Bell operating company such as Verizon, SBC, or Qwest, unless such is actually the case;
 - (iii) the only service being sold is state-to-state unless such is actually the case; or
 - (iv) the Companies have a tariff on file with the FCC.
- (b) Beginning on the Effective Date, the Companies will verify any and all new and/or former customers only by using the procedures authorized by the Commission and/or applicable state public utility commissions, including those currently set forth in 47 C.F.R. § 64.1120(c). Any Independent Third Party Verifier used by the Companies shall not be located in the same building as any of the Companies.
- (c) Beginning on the Effective Date, for any telecommunications carrier that is providing or will provide interstate telecommunications service and that is owned, managed or controlled by Kurtis J. Kintzel and/or Keanan Kintzel, such telecommunications carrier shall comply with any Commission registration requirements, including those currently set forth in 47 C.F.R. § 64.1195.
- (d) Beginning on the Effective Date, none of the Companies will discontinue long distance telephone service to customers in any State unless it first receives authorization from the Commission and/or applicable state public utility commissions, including such authorization that is currently required by the FCC in accordance with 47 C.F.R. § 63.71.
- (e) Beginning on the Effective Date, the Companies will file their quarterly and annual Telecommunications Reporting Worksheets by the due dates specified thereon.
- (f) Beginning on the Effective Date, the Companies will make their current federal universal service contributions by the due date specified on each

invoice sent to them by the Universal Service Administrative Company ("USAC").

- (g) Beginning on the Effective Date, the Companies will make their TRS contributions by the due date specified on each invoice sent to them by the National Exchange Carrier Association ("NECA").
- (h) Beginning on the Effective Date, the Companies will pay (if they have not already done so) their past due TRS contributions as billed by the National Exchange Carrier Association ("NECA").
- (i) The Companies will pay their remaining past due federal universal service obligations of \$772,659.56 in 24 monthly payments of \$35,298.75 each, in accordance with the documents signed by the Companies and their representatives on February 12, 2004.
- (j) Prior to any sale, dissolution, reorganization, assignment, merger, acquisition or other action that would result in a successor or assign for provision of the Companies' interstate communications services, the Companies will furnish a copy of this Consent Decree to such prospective successors or assigns and advise same of their duties and obligations under this Order.
- (k) The Companies will be responsible for making the substantive requirements and procedures set forth in this Consent Decree known to their respective directors and officers, and to managers, employees, agents, and persons associated with the Companies who are responsible for implementing the obligations set forth in this Consent Decree. The Companies will, within thirty (30) days of the Effective Date, deliver to each of their current directors and officers, and to all Sales Representatives, written instructions as to their respective responsibilities in connection with the Companies' compliance and obligations under this Consent Decree. The Companies will distribute said instructions to all of their future directors and officers wherever located, and to all future Sales Representatives, on the date such individuals are appointed or hired to such positions.
- (l) The Companies will establish a Sales Representative Code of Conduct (the "Code"), which will conform to this Consent Decree and be reviewed and signed by all current Sales Representatives. As part of their initial training, each new Sales Representative will also sign the Code. All Sales Representatives will reaffirm semi-annually, in writing that they have recently reviewed, and fully understand, the Code. The Code will establish a strict quality standard, to which all Sales Representatives will be required to adhere. The Code will establish, *inter alia*, that all Sales Representatives will make representations consistent with the restrictions specified in paragraph 14(a) above.

- (m) Beginning on the Effective Date, the Companies will inform all Sales Representatives that violation of the provisions of paragraph 14(a) will result in mandatory penalties and increasingly severe measures for repeat offenders, including employee re-training, compensation reduction, suspension from work, and termination.
- (n) Beginning on the Effective Date, the Companies will promptly and in good faith address and resolve all complaints in a reasonable manner consistent with this Consent Decree. In all cases where the Companies conclude that Misleading statements were made by a Sales Representative, the Companies will contact the Customer and provide appropriate remedies.
- (o) Within 60 days from the Effective Date, the Companies will provide a formal report to the Bureau. The Companies will provide additional reports every twelve (12) months thereafter, with a final report due fifty (50) months from the Effective Date. Each report will include the following: (a) evidence of payment of the Companies' past due universal service obligations, the last of which is expected to occur no later than March 1, 2006; (b) evidence of payment of the Companies' most recent invoice from the Universal Service Administrative Company; (c) evidence of payment of the Companies' most recent invoice from NECA concerning TRS; (d) a copy of the Companies' Telecommunications Reporting Worksheets filed since the previous report; (e) the name(s) and address(es) of all Independent Third Party Verifiers used by the Companies since the previous report; and (f) information since the last report relating to all customer complaints based on alleged Misleading statements from Sales Representatives, including, the name and address of the customer, the name of the Sales Representative, a brief summary of the alleged Misleading statement, the disciplinary action taken, if any, against the Sales Representative, and the resolution of the complaint. If, by the date of the report, the Companies are still investigating one or more such complaints and/or have not yet acted on any such complaint(s), the report should so state.

15. The Companies will make a voluntary contribution (not a fine or a penalty) in the amount of \$510,000 in installments over a forty-eight (48) month period, with the first payment due May 15, 2004, and each successive payment due on the 15th day of the following month. The first forty-seven payments shall be in the amount of \$10,700; the forty-eighth and last payment shall be in the amount of \$7,100. The Companies may prepay this amount, and are encouraged to do so, without penalty. The Companies must make these payments by check, wire transfer or money order drawn to the order of the Federal Communications Commission, and the check, or money order must refer to NAL Acct. No. 200332170002 and FRN No. 0007179054. See 47 C.F.R. § 1.80(h). The Companies must mail the check or money order to: Forfeiture Collection

Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482.

16. In express reliance on the covenants and representations contained herein, the Bureau agrees to terminate this Proceeding and resolve the Show Cause Order.

17. The Companies represent and warrant that they shall not, for the purpose of circumventing any part of this Consent Decree, effect any change in their form of doing business or their organizational identity or participate directly or indirectly in any activity to form a separate entity or corporation which engages in acts prohibited in this Consent Decree or for any other purpose which would otherwise circumvent any part of this Consent Decree or the obligations of this Consent Decree. Nothing in the foregoing sentence shall be construed to prohibit the Companies from effecting any change in their form of doing business or their organizational identity, or participating directly or indirectly in any activity to form a separate entity or corporation, where such change does not have the effect of circumventing any part of this Consent Decree.

18. The Companies' and the Bureau's decision to enter into this Consent Decree is expressly contingent upon the signing of the Order by the presiding officer and the Order becoming a Final Order without revision, change, addition, or modification of this Consent Decree. The Parties agree that either the Bureau or the Companies may withdraw from this Consent Decree if any revision, change, addition, or modification is made to its terms.

19. The Parties agree that this Consent Decree shall become part of the record of this Proceeding only on its Effective Date.

20. If the Commission, or the United States on behalf of the Commission, brings a judicial action to enforce the terms of this Consent Decree, the Parties will not contest the validity of the Consent Decree, and the Companies and their Affiliates will waive any statutory right to a trial *de novo*. The Companies and their Affiliates do not waive any statutory right to a trial *de novo* to determine whether they violated this Consent Decree.

21. The Companies and their principals waive any rights they may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*

22. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

23. Any material violation of the Consent Decree, including the non-payment of any part of the forfeiture, will constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order. The Commission agrees that before it takes any formal action in connection with any alleged or suspected violation of this Consent

Decree, the Companies or their Affiliates will be notified of the alleged or suspected violation and be given a reasonable opportunity to respond.

24. The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission, where compliance with the provision would result in a violation, (except an order specifically intended to revise the terms of this Consent Decree to which the Companies and their principals do not consent) that provision will be superseded by such Commission rule or order.

25. By this Consent Decree, the Companies do not waive or alter their right to assert and seek protection from disclosure of any privileged or otherwise confidential and protected documents and information, or to seek appropriate safeguards of confidentiality for any competitively sensitive or proprietary information. The status of materials prepared for, reviews made and discussions held in the preparation for and implementation of the Companies' compliance efforts under this Consent Decree, which would otherwise be privileged or confidential, are not altered by the execution or implementation of the terms of this Order and no waiver of such privileges is made by this Consent Decree.

26. The Parties agree that, within five (5) business days after the date of this Consent Decree, they will file with the presiding officer a joint motion and draft order requesting that the presiding officer sign the draft order, accept Consent Decree, and close the record. The Parties will take such other actions as may be necessary to effectuate the objectives of this Consent Decree.

27. This Consent Decree may be signed in counterparts.

For the Enforcement Bureau,
Federal Communications Commission

David H. Solomon
Chief

Date

For Business Options, Inc.
U.S. Bell, Inc./Link Technologies
Buzz Telecom Corporation
Avatar Enterprises, Inc.



Kurtis J. Kintzel
Chief Executive Officer

11 February 2004
Date

Decree, the Companies or their Affiliates will be notified of the alleged or suspected violation and be given a reasonable opportunity to respond.

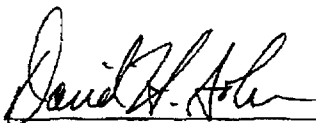
24. The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission, where compliance with the provision would result in a violation, (except an order specifically intended to revise the terms of this Consent Decree to which the Companies and their principals do not consent) that provision will be superseded by such Commission rule or order.

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27. This Consent Decree may be signed in counterparts.

For the Enforcement Bureau,
Federal Communications Commission



David H. Solomon
Chief

Date

2/13/04

For Business Options, Inc.
U.S. Bell, Inc./Link Technologies
Buzz Telecom Corporation
Avatar Enterprises, Inc.

Kurtis J. Kintzel
Chief Executive Officer

Date

ATTACHMENT B



Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
445 12th Street, SW, Suite 4-C330
Washington, D.C. 20554

December 20, 2006

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND FACSIMILE 219-756-0718

Mr. Keanan Kintzel
Business Options, Inc.
9380 Louisiana St.
Merrillville, IN 46410

Re: Business Options, Inc., EB-06-IH-5037

Dear Mr. Kintzel:

The Enforcement Bureau (the "Bureau") is investigating whether Business Options, Inc. and its affiliated companies (collectively "the Companies") may have violated the terms of the Consent Decree that it entered into with the Commission, FCC 04-08, and which was released on February 20, 2004.¹ We direct the Companies, pursuant to sections 4(i), 4(j), 218 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 218, 403, to provide the information and documents, as defined herein, within twenty (20) calendar days from the date of this letter.

Instructions

Request for Confidential Treatment. If the Companies request that any information or documents responsive to this letter be treated in a confidential manner, they shall submit, along with all responsive information and documents, a statement in accordance with section 0.459 of the Commission's rules. 47 C.F.R. § 0.459. Requests for confidential treatment must comply with the requirements of section 0.459, including the standards of specificity mandated by section 0.459(b). Accordingly, "blanket" requests for confidentiality of a large set of Documents are unacceptable. Pursuant to section 0.459(c), the Bureau will not consider requests that do not comply with the requirements of section 0.459.

Claims of Privilege. If the Companies withhold any information or documents under claim of privilege, they shall submit, together with any claim of privilege, a

¹For purposes of this inquiry letter, "Companies" has the same meaning as set forth in Paragraph 2(f) of the Consent Decree.

schedule of the items withheld that states, individually as to each such item, the numbered inquiry to which each item responds and the type, title, specific subject matter, and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific ground(s) for claiming that the item is privileged.

Method of Producing Documents. Each requested document, as defined herein, shall be submitted in its entirety, even if only a portion of that document is responsive to an inquiry made herein. This means that the document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other documents referred to in the document or attachments. All written materials necessary to understand any document responsive to these inquiries must also be submitted.

For each document or statement submitted in response to the inquiries below, indicate, by number, to which inquiry it is responsive and identify the person(s) from whose files the document was retrieved. If any document is not dated, state the date on which it was prepared. If any document does not identify its author(s) or recipient(s), state, if known, the name(s) of the author(s) or recipient(s). The Companies must identify with reasonable specificity all documents provided in response to these inquiries.

Documents No Longer Available. If a document responsive to any inquiry made herein existed, but is no longer available, or if the Companies are unable for any reason to produce a document responsive to any inquiry, identify each such document by author, recipient, date, title, and specific subject matter, and explain fully why the document is no longer available or why the Companies are otherwise unable to produce it.

Retention of Original Documents. With respect only to documents responsive to the specific inquiries made herein and any other documents relevant to those inquiries, the Companies are directed to retain the originals of those documents for twelve (12) months from the date of this letter unless (1) the Companies are directed or informed by the Enforcement Bureau in writing to retain such documents for some other period of time or (2) the Enforcement Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case, the Companies must retain all such documents until the matter has been finally concluded by payment of any monetary penalty, satisfaction of all conditions, expiration of all possible appeals, conclusion of any collection action brought by the United States Department of Justice or execution and implementation of a final settlement with the Commission or the Enforcement Bureau.

Continuing Nature of Inquiries. The specific inquiries made herein are continuing in nature. The Companies are required to produce in the future any and all documents and information that are responsive to the inquiries made herein but not initially produced at the time, date and place specified herein. In this regard, the Companies must supplement their responses (a) if the Companies learn that, in some material respect, the documents and information initially disclosed were incomplete or incorrect or (b) if

additional responsive documents or information are acquired by or become known to the Companies after the initial production. The requirement to update the record will continue for twelve (12) months from the date of this letter unless (1) the Companies are directed or informed by the Enforcement Bureau in writing that the obligation of the Companies to update the record will continue for some other period of time or (2) the Enforcement Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case the obligation to update the record will continue until the release of such item.

Unless otherwise indicated, the period of time covered by these inquiries is February 2004 to the present.

Definitions

For purposes of this letter, the following definitions apply:

"Any" shall be construed to include the word "all," and the word "all" shall be construed to include the word "any." Additionally, the word "or" shall be construed to include the word "and," and the word "and" shall be construed to include the word "or." The word "each" shall be construed to include the word "every," and the word "every" shall be construed to include the word "each."

"Document" shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, correspondence, letter, facsimile, e-mail, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, photograph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minutes, marketing plan, research paper, preliminary drafts, or versions of all of the above, and computer material (print-outs, cards, magnetic or electronic tapes, disks and such codes or instructions as will transform such computer materials into easily understandable form).

"Identify," when used with reference to a person or persons, shall mean to state his/her full legal name, current business address, and phone number. "Identify," when used with reference to a document, shall mean to state the date, author, addressee, type of document (*e.g.*, the types of document, as described above), a brief description of the subject matter, its present or last known location and its custodian. "Identify," when used with reference to an entity other than a person, shall mean to state its name, current or last known business address, and current or last known business telephone number.